

Encroachment Appeal - 40 London Street

Date: September 26, 2023

To: Toronto and East York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 11, University-Rosedale

SUMMARY

This staff report is about a matter that Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is for Toronto and East York Community Council to consider an appeal from the property owner of 40 London Street regarding their encroachment application. The encroachment consists of a wooden fence which is in contravention of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

The property owner is seeking approval from Toronto and East York Community Council to allow a wooden fence to be maintained within the public right-of-way at 40 London Street, which is in contravention of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

RECOMMENDATIONS

The Director, Permits and Enforcement, Transportation Services recommends that:

1. Toronto and East York Community Council not authorize the City to enter into an encroachment agreement with the owners of 40 London Street permitting the maintenance of the wooden fence as it contravenes City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.
2. Toronto and East York Community Council require the owner of 40 London Street to remove all installed encroachments on the right-of-way to the satisfaction of the General Manager of Transportation Services.

FINANCIAL IMPACT

There are no financial impacts resulting from the adoption of the recommendations in this report.

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An encroachment application was received on August 11, 2023, from the owners of 40 London Street requesting permission to maintain an existing wooden fence within the public right-of-way on London Street fronting the subject premises.

Transportation Services has reviewed the application and the property located at 40 London Street. The existing encroachment has multiple deficiencies that contravene Code Chapter 743. The deficiencies include the following:

- The fence exceeds 0.9 in height which is not a permitted encroachment within the Municipal Code Chapter 743.
- The fence as built reaches a height of 2.3 metres and is located immediately behind the sidewalk along the London Street frontage of the property and immediately adjacent to the laneway flanking the property, which is less than 70 metres away from the intersection of two or more streets, and contravenes the Municipal Code Chapter 743 article 743-34A.(2)(a)[1].
- The fence as built reaches a height of 2.3 metres and is less than 3 metres away from a sidewalk, which contravenes the Municipal Code Chapter 743 article 743-34A.(2)(a)[2].

The applicant was notified that the combined wooden fence is not eligible for an encroachment agreement and an appeal was subsequently received from the property owner.

As required by Section 743-48 of the Toronto Municipal Code, Transportation Services has responded to the appeal by preparing this report for Toronto and East York Community Council consideration and to provide the applicant with an opportunity to be heard.

Digital photos of the existing wooden fence are included in Attachment 1.

Alternate Recommendations

If, despite the findings above, Toronto and East York Community Council decides to authorize the General Manager, Transportation Services to enter into an encroachment

agreement with the property owner of 40 London Street permitting the wooden fence, it may adopt the following:

1. Toronto and East York Community Council authorize the General Manager of Transportation Services to negotiate and enter into an encroachment agreement with property owner of 40 London Street, to permit the construction and maintenance of the wooden fence subject, but not limited to, the following conditions:

- a. Indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages, and expenses that may result from such permission granted;
- b. Maintain the wooden fence at their own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement.
- c. Accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
- d. Alter the wooden fence to provide a 3.0 metre x 3.0 metre vision splay at the intersection of the fence located at the sidewalk and laneway;
- e. Remove the wooden fence upon receiving written notice to do so;
- f. The property owner shall agree that the City and/or utility companies may remove the encroachments at any time in order to install or maintain services within the affected public right-of-way with no obligation to replace them; and
- g. The property owner will enter into an encroachment agreement with the City of Toronto, at the applicant's expense, and assume all liability and damages related to the encroachments.

The Ward Councillor has been advised of the recommendations in this report.

CONTACT

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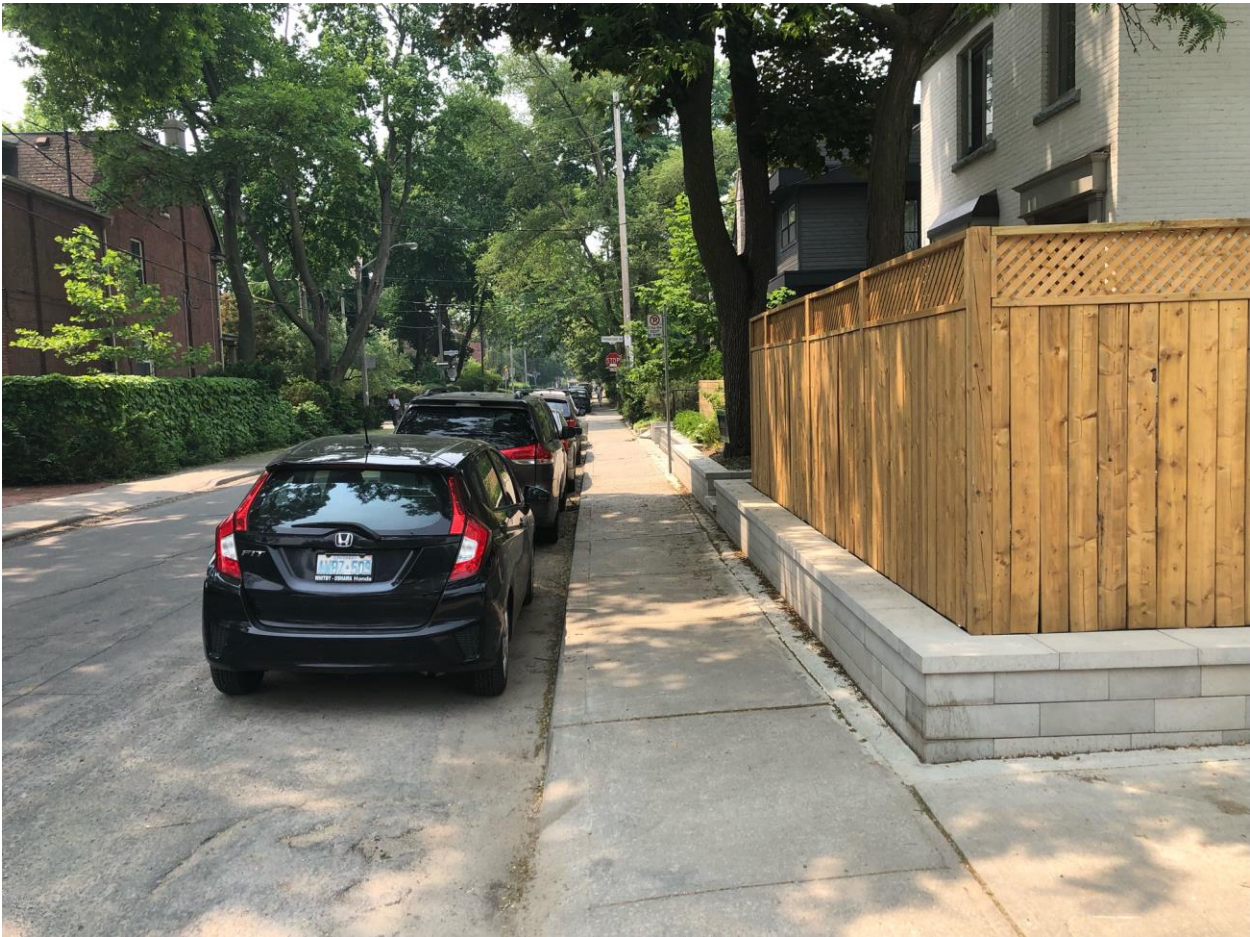
SIGNATURE

Antonia Markos
Director, Permits and Enforcement, Transportation Services

ATTACHMENTS

Attachment 1: Digital Photo A & B of Existing Encroachment - 40 London Street

Attachment 1: Digital Photo A of Existing Encroachment - 40 London Street



Attachment 1: Digital Photo B of Existing Encroachment - 40 London Street

